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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/379,699	08/24/1999	JEFFRY JOVAN PHIYAW	PHLY-24-747	1610
25883	7590	12/02/2005	EXAMINER	
HOWISON & ARNOTT, L.L.P			ZIA, SYED	
P.O. BOX 741715				
DALLAS, TX 75374-1715			ART UNIT	PAPER NUMBER
			2131	

DATE MAILED: 12/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/379,699	Applicant(s) PHIYAW ET AL.	
	Examiner Syed Zia	Art Unit 2131	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 04 November 2005. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: 1-12, 14-18 and 24-26.
- Claim(s) objected to: 23.
- Claim(s) rejected: 19-22.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Attachment.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

DETAILED ACTION

Response to Amendment

This office action is in response to amendments filed on November 04, 2005. Original application contained Claims 1-9. Applicant previously amended Claim 1, 9, and added new claims 10-27. Applicant currently amended claims 1, 9, and 14, and cancelled claims 13, and 27. Applicant's submission filed November 04, 2005 has been entered and made of record. Therefore, Claims 1-12, and 14-26 are pending for further consideration.

Response to Arguments

1. Applicant's arguments filed November 04, 2005 regarding withdrawing Claim Rejections under 35 USC § 112 after filing current amendment has been found persuasive. Therefore, previous Claim Rejections under 35 USC § 112 has been withdrawn.
2. No argument was filed regarding art rejection.

Allowable Subject Matter

3. Claims 1-12, 14-18 and 24-26 are allowed

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4. Claim 23 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 19-22 are rejected under 35 U.S.C 102(e) as being anticipated by Hudetz et al., US Patent No. (5,978,773).

6. Regarding Claim 19 Hudetz teaches a system for using identification codes [product codes] found on ordinary articles of commerce to access remote computers on a network and a method for utilizing a product code (Fig.1 Item 46) having product information contained therein for interfacing (Fig.1 Item 50) a computing device at a user node (Fig.1 Item 28) on a network to at least one of a plurality of remote node (Fig.1 Item 24) on the network (Fig.1 Item 20), the computing device at the user node having application software installed thereat for examining product code input thereto, comprising the steps of

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- extracting (i.e. scanning, reading) (Fig.1 Item 44) the product information from the product code at the user node (Fig.1 Item 28) for input to the computing device at the user node (Fig. 1 and 3, col. 6 line 20 to line 32, and col.5line 34 to line 35);

- in response to the step of extracting, the application software:

- assembling a message packet containing the product information (Fig.1 Item 48, and 46), and transmitting the data transmission (i.e. using PPP or HTTP protocol) to an intermediate node on the network (i.e. service provider) (Fig.1 Item 22) on the network (Fig.1 Item 20),

- receiving from the intermediate node (i.e. service provider) (Fig.1 Item 22) on the network instructional code that instructs the computing device at the user node (Fig.1 Item 28) to connect to one of the remote nodes (Fig.1 Item 24) on the network (Fig.1 Item 20) that has defined association with the extracted product information, which defined association is defined at the intermediate node (Fig.5 Item 86, 88, and col.9 line 33 to line 43), and

- connecting the computing device at user the node to the one of the remote nodes in accordance with the received instructional code such that connection to the remote node is controlled by the intermediate node through the instructional code (i.e. automatic jumping [connection] (col.9 line 54 to line 65), wherein connections to remote nodes on the network in response to the step of extracting are controlled by the intermediate node and not by any actions at the user node other than the operations of extracting (i.e. a field in database 60 for enabling the automatic diverting of the traffic to desired location) (col.9 line 33 to line 43), and wherein actions at the user node do not prevent connection or effect connection to the remote node (col.9 line 54 to line 65).

7. Claim 20 is rejected as applied above in rejecting claim 19. Furthermore Hudetz teaches method of extracting product information (Fig. 1, 3, 5, and 8) wherein

- the product code is machine-readable code (col.6 line 29 to line 33),
- interfacing with the network utilizing network routing information embedded with instructional code (Fig.4-5, col.7 line 2 to col.8 line 10);

8. Claims 21-22 are rejected as applied above in rejecting claim 20. Further more Hudetz teaches and describes network routing utilizing product code, wherein:

- the step of extracting comprises scanning the machine-readable code to extract the product code information (col. 8 line 34 to line 46);
- and machine-readable code comprises a bar code (col. 10 line 3 to line 11, and col.11 line 28 to line 34);
- the step of extracting comprises scanning the product code with an optical scanner that is operable to extract the product code information from the product code (col. 8 line 34 to line 46);

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Syed Zia whose telephone number is 571-272-3798. The examiner can normally be reached on 9:00 to 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sz

November 14, 2005